

REMARKS/ARGUMENTS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 1-8 remain active in this application. Claims 1-5 and 8 are amended. Support for the substantive portion of these amendments is found, for example, in the Specification on page 81, second paragraph. Thus, no new matter is added.

In the outstanding Official Action, Claims 1, 3-5, and 7-8 are rejected under 35 U.S.C. § 103 (a) as being unpatentable over Takihiro, et al. (U.S. Pat. No. 6,278,712 hereafter Takihiro); Claims 2 and 6 are rejected under 35 U.S.C. § 103 (a) as being unpatentable over Takihiro in view of Kubler, et al. (U.S. Patent No. 6,389,010 hereafter Kubler).

REJECTION UNDER 35 U.S.C. § 103

The Official Action has rejected Claims 1, 3-5 and 7-8 under 35 U.S.C. § 103(a) as being unpatentable over Takihiro. The Official Action acknowledges that Takihiro fails to teach reservation confirmation when said reservation control apparatus receives said reconfirmation information sent from said user terminal apparatus. Likewise, Takihiro fails to teach the reception of reconfirmation by a predefined time before said desired service time, and of canceling said reservation when said reservation control apparatus does not receive said reconfirmation information by a predetermined time before said desired service time. However, the Official Action states that it would have been obvious to one of ordinary skill in the art at the time the invention was made, in view of Takihiro, to arrive at the Applicants' claims. Applicants respectfully traverse the rejection.

Amended Claim 1 recites, *inter alia*:

... confirming said reservation when said reservation control apparatus receives said reconfirmation information sent from said user terminal apparatus, by a predetermined time before said desired service time, and of canceling said reservation when said reservation control apparatus does not

receive said reconfirmation information by a predetermined time before said desired service time; and

storing communication/connection information used for said user terminal apparatus to connect and communicate with said processing server sent from said reservation control apparatus when said reservation is confirmed, in a predetermined storage area of said user terminal apparatus.

By way of background, “on-demand video distribution” refers to a system whereby a motion picture file is uploaded in a streaming server before distribution and then distributed in response to a request from a client. On the other hand, “live distribution” refers to the technique of distributing live content, including motion pictures, to clients. In “live distribution” systems, motion picture data is encoded in real time and sent from a live content distributor to a streaming server over the Internet, for example. Then, the streaming server provides the motion picture data to users while recording it in a dedicated storage area.¹

When “live distribution” is performed, it is necessary to secure a communication path to transmit motion picture data between the streaming server and a personal computer of the content creator. However, because bandwidth is limited, a content creator who has been preparing for live distribution at a particular time may not have sufficient bandwidth to perform live distribution at a time of high traffic.² In order to prevent such a problem and ensure efficient use of the streaming server to perform live distribution, it is possible to use the streaming server based on a reservation system. However, a reservation system is susceptible to abuse by illegal users who may make fictitious reservations (making a reservation but not fulfilling it). Such fictitious reservations can render the reservation system useless.³

Thus, with at least this deficiency in mind the present invention is provided. With this object in mind, a brief comparison of the claimed invention, in view of the cited reference is believed to be in order.

¹ Specification, page 2, lines 12-17.

² Specification, page 3, lines 9-11.

³ Specification, page 3, lines 19-21.

Takihiro describes a network and switching node in which resources can be reserved. In particular, Takihiro describes a network (1) that provides various services regarding resource reservation to the user terminals (4-1) and (4-2). A resource reservation message (51) and a resource reservation result notice message (52) are exchanged with the user terminals (4-1) and (4-2).⁴ Further, as cited in the Official Action, Takihiro describes notifying other switching nodes of a reservation state when the reserving unit reserves a resource.⁵ Each user terminal has reservation requesting structure for sending a resource reservation request in which permissible time range information indicative of a permissible time range of time and date to perform a communication.⁶ And it describes the user of the user equipment can always confirm the present resource reservation state in accordance with necessity.⁷

Conversely, in an exemplary embodiment of the Applicants' claimed invention a reservation control apparatus is capable of allowing many users to use the functions of a processing server with equal efficiency. For example, those requests that are not a high priority from the viewpoint of the requester will not be reconfirmed, and thus resources will become available for other users in a practically sufficient time. But when a reservation is reconfirmed, the content distributor can rely upon the communication channel being open and not being preempted.

Accordingly, presently amended Claims 1, 5, and 8 recite "canceling said reservation when said reservation control apparatus does not receive said reconfirmation information by a predetermined time before said desired service time" and "storing communication/connection information used for said user terminal apparatus to connect and communicate with said

⁴ Takihiro, column 9, lines 24-27.

⁵ Takihiro, column 4, lines 42-44.

⁶ Takihiro, column 30, lines 60-67.

⁷ Takihiro, column 26, lines 59-61.

processing server sent from said reservation control apparatus, in a predetermined storage area of said user terminal apparatus."

However, Takihiro is premised on a priority scheme where priority is ranked by the system, and higher priority reservations preempt lower priority reservations⁸. Consequently, there is always a degree of uncertainty that a lower priority request will not be fulfilled. Thus, the certainty granted to a high priority request is indefinitely expensive to the entire population of users. Further, a higher priority user (which was hacked for example) could enter fictitious requests, thereby cancel lower priority requests, and effectuate a denial of service (DoS) attack against the other users at any time without actually using the system resources or its own resources.

It is well settled that, “[a] reference may be said to teach away when a person of ordinary skill in the art, upon reading the reference, would be discouraged from following the path set out in the reference, or would be led in a direction divergent from the path that was taken by the applicant.” *In re Gurley*, 31 USPQ2d 1130, 1131 (Fed. Cir. 1994). To this end, “disclosures in the references that diverge from and teach away from the invention cannot be disregarded.” *Phillips Petroleum Company v. U.S. Steel Corp.*, 9 USPQ2d 1461 (Fed. Cir. 1989). Therefore, Applicants respectfully request that the rejection be withdrawn.

REJECTION UNDER 35 U.S.C. § 103 over TAKIHIRO in view of KUBLER

The Official Action has rejected Claims 2 and 6 under 35 U.S.C. § 103(a) as being unpatentable over Takihiro in view of Kubler. The Official Action acknowledges that Takihiro fails to teach a billing step of performing billing processing related to said reservation when the reservation is confirmed in said reservation confirming step, but cites Kubler as disclosing this more detailed aspect of the claimed invention. Applicants respectfully traverse this rejection.

⁸ Takihiro, Figure 12.

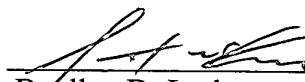
Application No. 09/938,591
Reply to Office Action of November 17, 2004

As discussed above, Takihiro does not disclose or suggest all of the Applicants claim limitations as amended. Likewise, Kubler does not remedy the deficiency discussed above. Therefore, Applicants respectfully submit that the Official Action has not presented a *prima facie* case of obviousness with respect to Claims 2 and 6.

Accordingly, in view of the present amendment of Claims 1- 5 and 8 no further issues are believed to be outstanding and the present application is believed to be in condition for formal allowance. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Bradley D. Lytle
Attorney of Record
Registration No. 40,073

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 06/04)

Scott A. McKeown
Registration No. 42,866